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THOMAS O. MIGHT PRESIDENT & CEO

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JUL - 3 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 1, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: *Ex Parte* Presentation in CS Docket No. 95-184

Dear Mr. Caton:

I am writing on behalf of Cable One, Inc. ("Cable One"), formerly Post-Newsweek Cable, Inc., with regard to the Commission's deliberations in the above-referenced proceeding relating to broadband wiring used to provide multichannel video programming service to residents of multiple dwelling unit ("MDU") properties. Cable One operates multiple franchised cable television systems across the country, primarily in rural and non-urban areas.

Cable One understands that the National Cable Television Association ("NCTA") has made several *ex parte* presentations in this proceeding advocating a proposal which would create incentives for owners of MDU properties to allow multichannel video programming distributors ("MVPDs") to compete head-to-head for subscribers in MDU properties, without having to construct multiple sets of home run wiring running to each unit. Cable One agrees that a regulatory approach which facilitates unit-by-unit competition for video subscribers in MDU properties is the best policy to achieve Congressional goals to provide more choice for video consumers.

Rather than embrace the pro-competitive proposal advanced by NCTA, Cable One understands that certain Commissioners and staff members seem to be considering an approach proposed by the Independent Cable and Telecommunications Association ("ICTA") designed to facilitate the ability of MVPDs to enter into exclusive contracts with MDU owners to be the

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sole provider of multichannel video programming to residents of such MDU. Under this approach, MDU residents would be denied the ability to choose among MVPDs, but rather would be forced to obtain all such service from the sole-source supplier selected by the MDU owner.

Certain advocates apparently have attempted to rationalize this facially anticompetitive ICTA approach under the theory that building-by-building competition is a reasonable proxy for unit-by-unit competition and that MDU owners can be trusted to choose the MVPD which will be "best" for their residents.¹ It is Cable One's experience that MDU owners rarely award exclusive contracts to MVPDs based upon paternalistic notions of consumer welfare, but rather are most often influenced by that MVPD willing to pay the largest kickback in return for the exclusive contract. A recent example involving MDU SMATV systems operating in Fargo, ND typifies Cable One's experience in this regard.

In Fargo, ND, Cable Plus, an unfranchised SMATV operator, has recently entered into exclusive contracts to provide service to Trollwood Manor Apartments and Edgewood Court Apartments, MDU properties formerly served by Cable One, the franchised cable television system in the City of Fargo. As is demonstrated by the attached service comparison and rate cards, the residents of these particular MDUs are in every case harmed by the landlord's choice of a new MVPD. The SMATV operator's lowest priced service costs residents \$13.70 more per month than Cable One's lowest priced service, depriving low income subscribers of an affordable lifeline level of service. Furthermore, the SMATV operator's intermediate level of service costs \$4.45 more than Cable One's intermediate level of service, yet contains five fewer channels. Similarly, the SMATV operator's most extensive level of service costs \$3.30 more than that of Cable One, yet contains three fewer channels. This trend continues with regard to rates for premium services, equipment rental and service calls -- in every case, Cable One offers lower rates than the SMATV operator awarded exclusive contracts by the MDU owner. Yet, because residents did not have the right to select between Cable One and the SMATV operator, but rather had that choice made for them by their landlord, every resident of these MDUs now pays more to receive less service than would be the case if they were given the ability to choose among competing MVPDs.

¹By the same token, it could be argued that local elected officials can be presumed to act in the best interests of their constituents, and thus should be allowed to award an exclusive contract, through competitive bidding or otherwise, to a single MVPD deemed "best" for that community. Congress expressly rejected this approach in the 1992 Cable Act. See 47 U.S.C. § 541(a)(1).

	CABLE ONE (Franchised Cable Operator)	SMATV OPERATOR
Basic	\$10.25/12 channels	\$23.95/30 channels
Intermediate	\$25.45/43 channels	\$29.90/38 channels
Expanded	\$29.90/50 channels	\$33.20/47 channels
Disney Channel	Included on Intermediate tier	\$8.95
HBO	\$9.95	\$10.95
Showtime	\$7.95	\$8.95
Exclusive Contract with MDU	NO	YES
Kickbacks Paid to MDU	NO	YES

The foregoing example is not just an isolated situation limited to these two most recent buildings. In all, landlords of 21 Fargo MDU buildings containing over 2,500 dwelling units have chosen kickbacks over more services for their tenants at lower prices. Based on Cable One's experience with circumstances such as those in Fargo, any assumption that MDU owners are likely to act in the best interests of their residents in selecting an exclusive video programming provider, rather than in their own economic self interest, is simply unfounded.² But even if the interests of MDU owners and MDU residents could be shown to occasionally coalesce, an approach which attempts to rely on building-by-building competition as a substitute for true consumer choice among competing MVPDs is nevertheless bad policy. Cable One urges the Commission to heed Congress' call to promote facilities based competition and consumer choice, rather than adopt procedures advocated by ICTA which simply make it easier for MDU owners to exercise their bottleneck power to eject incumbent MVPDs and award exclusive contracts which deny MDU residents a choice among competing video providers.

Cable One understands that both the NCTA and ICTA proposals have been submitted in the form of *ex parte* presentations, which has precluded a full understanding of the details of either proposal and has prevented a meaningful opportunity for comment and refinement from interested parties. Any FCC decision which affects internal broadband wiring in MDUs is likely to raise a multiplicity of complex issues and have wide ranging implications for the

²In an effort to retain MDU subscribers, Cable One has occasionally been forced to engage in bidding contests with SMATV operators, and indeed Cable One has often been the successful bidder in such situations. Nevertheless, this experience only serves to confirm Cable One's position that MDU owners typically select the bidder offering the most consideration to the MDU owner, not the bidder offering the best service or lowest prices to MDU residents.

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development of competition for video services, telephony, internet access and other communications services. Accordingly, before the Commission takes any precipitous action in this area, Cable One urges the Commission to issue a further notice of proposed rulemaking, with an expedited comment period, to allow for a full airing of both the NCTA and ICTA proposals.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas O. Might", with a stylized flourish at the end.

Thomas O. Might
President
Cable One, Inc.

54489

cc: Hon. Reed E. Hundt
Hon. James H. Quello
Hon. Susan Ness
Hon. Rachelle B. Chong
Gretchen Rubin, Esq.
Marsha MacBride, Esq.
Anita Wallgren, Esq.
Suzanne Toller, Esq.
William Kennard, Esq.
John Nakahata, Esq.
Rebecca Dorch, Esq.
Meredith Jones, Esq.
John Logan, Esq.
JoAnn Lucanik, Esq.
Meryl Icove, Esq.
Rick Chessen, Esq.

Cable Service Comparison

Cable ONE

Reception Service \$10.25
12 Channels

Lifeline Service \$25.45
43 Channels (Disney Channel Included)

Limited Service \$29.90
50 Channels

Premium Services

HBO \$9.95
Showtime \$7.95
The Disney Channel (Included in Lifeline Service)
Cinemax \$7.95
The Movie Channel \$8.95
Starz and Encore \$5.95

Showtime/Showtime 2/ TMC \$13.95

HBO/HBO 2/HBO 3/
Cinemax/Cinemax 2 \$15.95

HBO/HBO 2/HBO 3/Cinemax/
Cinemax 2/Showtime/Showtime 2
TMC \$25.95

Pay-Per-View

12 Channels
Movies \$2.99
Adult \$5.95

Other Services

Remote Control \$.80
Addressable Converter \$ 1.50
Change of Service \$ 1.99
Installation \$29.78
Trip Charge \$ 9.89
Franchise Fee 5%
Home Wiring Maintenance \$.50
Premium Guide Free
Expanded Guide \$ 1.00

Cable Plus

Variety Pac Service \$23.95
30 Channels
(Includes Mandatory \$.99 Guide)

Action Pac Service \$29.90
38 Channels
(Must be purchased in order to receive ESPN, USA, TNN, TNT, Lifetime and the Weather Channel)

Super Pac Service \$33.20
47 Channels

Premium Services

HBO \$10.95
Showtime \$ 8.95
The Disney Channel \$ 8.95
Cinemax Not Offered
The Movie Channel Not Offered
Starz and Encore Not Offered

Multi-Plex Not Offered

Multi-Plex Not Offered

Multi-Plex Not Offered

Pay-Per-View

Not Offered

Other Services

Non-Addressable Converter
With Remote Control \$ 4.95
Change of Service \$10.00
Installation \$35.00
Trip Charge (Non-Cable Problems) \$35.00
Miscellaneous Monthly Fee \$ 1.04



CHANNEL LINE-UP

CH	NETWORK	CH	NETWORK
2	Local Access/Valuevision	39	American Movie Classics
3	ESPN	40	C-Span
4	KXJB (CBS)	41	The Learning Channel/Ed. Access
5	CNN	42	C-Span 2
6	WDAY (ABC)	43	QVC 2
7	USA	44	QVC
8	Command Video Previews	45	E! Entertainment
9	TNT	46	Court TV
10	KVRR (Fox)	47	TV Food Network
11	KVLY (NBC)	48	TV Land
12	Midwest Sports Channel	49	MSNBC
13	KFME (PBS)	50	ESPNews
14	CTV	51	ESPN 2
15	The Family Channel	52	Comedy Central
16	The Disney Channel	53	Bravo
17	Cinemax	54	The Cartoon Network
18	Cinemax 2	55	Turner Classic Movies
19	Prevue Guide	56	The History Channel
20	HBO 3	57	Sci-Fi Channel
21	HBO 2	58	Cable Billboard
22	HBO	59	Animal Planet
23	Starz *	61	Showtime
24	Encore *	62	Showtime 2
25	The Nashville Network	63	The Movie Channel
26	Lifetime	64	Viewers Choice 1
27	CNN Headline News	65	Viewers Choice 3
28	The Weather Channel	66	Viewers Choice 4
29	MTV	67	Hot Choice
30	The Discovery Channnel	68	Playboy
31	WTBS	69	Adam and Eve
32	Arts & Entertainment	70	Spice
33	Country Music Television	71	Action
34	CNBC	72	Viewers Choice 5
35	Religious Channel	73	Viewers Choice 6
36	WGN	74	Viewers Choice 8
37	Nickelodeon	75	Viewers Choice 9
38	VH-1		

Premium Services

Pay-Per-View

* Only Available in Standard Service



1024 Page Drive 280-0033

CABLE ONE™

New Name. New Attitude.

Prices DO NOT include A 5% City Franchise Fee or FCC User Fee Unless Indicated

MONTHLY CHARGES		PREMIUM SERVICES		INSTALLATION CHARGES (Installation Charges DO include the 5% Franchise Fee)	
Total Choice Service (58 Channels)	\$57.15	HBO	\$9.95	New Installation	\$46.67
<i>Includes Equipment, Remote and Maintenance Plus HBO, HBO 2, HBO 3, Cinemax, Cinemax 2, Showtime, Showtime 2 and The Movie Channel</i>		Cinemax	\$7.95	Reconnection	\$29.78
Preferred Service (55 Channels)	\$47.15	Showtime	\$7.95	Additional Outlet at Install/Relocate	\$21.89
<i>Includes Equipment, Remote and Maintenance Plus HBO, HBO 2, HBO 3, Cinemax and Cinemax 2</i>		The Movie Channel	\$8.95	Additional Outlet/Relocate	\$31.78
Premiere Service (53 Channels)	\$45.15	PACKAGES		Converter Installation	\$9.89
<i>Includes Equipment, Remote and Maintenance Plus Showtime, Showtime 2 and The Movie Channel</i>		HBO/HBO 2/HBO 3/Cinemax/ Cinemax 2/Showtime/ Showtime 2/The Movie Channel	\$25.95	VCR Kit	\$10.55
Standard Service (52 Channels)	\$37.15	HBO/HBO 2/HBO 3/Cinemax/ Cinemax 2	\$15.95	VCR Kit Installation	\$9.89
<i>Includes Equipment, Remote and Maintenance</i>		Showtime/Showtime 2/ The Movie Channel	\$13.95	Change of Service	\$1.99
Limited Service (50 Channels)	\$31.20	ADDITIONAL SERVICES		Hourly Service Charge	\$19.78
<i>Includes Equipment, Remote and Maintenance</i>		DMX	\$9.95		
Lifeline Service (43 Channels)	\$25.95	Sega	\$12.95		
<i>Includes Maintenance</i>		PAY-PER-VIEW			
Reception Service *	\$10.25	Movies	\$2.99		
Remote Control	\$0.80	Adult Home Theater	\$5.95		
Additional Outlet	FREE				
Duplicate Premium	\$3.03				
Addressable Converter	\$1.50				
Standard Converter	\$1.49				
Wire Maintenance	\$0.50				

Total Choice Service (Ch. 2-16, 17-22, 25-57, 59, 61-63)
Preferred Service (Ch. 2-16, 17-22, 25-57, 59)
Premiere Service (Ch. 2-16, 19, 25-57, 59, 61-63)
Standard Service (Ch. 2-16, 19, 23-57, 59)
Limited Service (Ch. 2-16, 19, 25-57, 59)
Lifeline Service (Ch. 2-16, 19, 25-50, 59)
Reception Service (Ch. 2,4,6,10,11,13,19,31,36,41-43)

Converter and Wire Maintenance FREE to Senior Citizens.
* Reception Service requires a \$75.00 refundable equipment deposit.

CABLE ONE™

New Name. New Attitude.

280-0033

1024 Page Drive Fargo, ND 58103



FARGO SERVICE

Variety 2-13, 23-43	\$23.95
Action 14-21	\$ 5.95
Super 50-58	\$ 3.30

No monthly fees for additional outlets

PREMIER SERVICES

Home Box Office	\$10.95
Showtime	\$ 8.95
Disney	\$ 8.95

Prices quoted in addition to
Fargo Service

ACTIVATION CHARGES

Fargo Service	\$35.00
Fargo + 1 Premier	\$30.00
Fargo + 2 or more Premiers	\$20.00
Activate additional outlet	\$20.00
Trip Charge	\$35.00

All Prices Effective January 1, 1997

Channels and prices subject to change without notice.

Converter Box not required with cable-ready TV/VCR.
Please check your cable-ready TV/VCR for a CATV or
CABLE button and activate to receive channels above 13.

Prices Subject to Change Without Notice
We Accept Visa and Mastercard

FOR SERVICE / INFORMATION
CALL

1-800-367-4918



FARGO

2	PMA	Property Management Access
3	ENTV	Entrance Viewing
4	CBS	KXJB - 4 - Fargo
5	SHO*	SHOWTIME
6	ABC	WDAY - 6 - Fargo
7	FAM	The Family Channel
8	INFO	Information Channel
8	NWS	National Weather Service - Radio
9	CNN	Cable News Network
10	FOX	KVRR - 15 - Fargo
11	NBC	KVLY - 11 - Fargo
12	CSPAN	Government - 24 Hours
13	PBS	KFME - 13 - Fargo
14	MTV	Music Television
15	LIFE	Lifetime Television
16	ESPN	Sports - 24 Hours
17	TNN	The Nashville Network
18	USA	USA Network
19	ESPN2	The Deuce
20	TWC	The Weather Channel
21	TNT	Turner Network Television
22	DIS*	THE DISNEY CHANNEL
23	NICK	Nickelodeon/Nick at Nite
25	HBO*	HOME BOX OFFICE
26	HSN	Home Shopping Network
27	AMC	American Movie Classics
28	SCIFI	Science Fiction Channel
29	ODSY	Odyssey - Multi-Denominational
30	VH-1	Video Hits One
31	CNNHL	CNN Headline News
33	COM	Comedy Central
34	TOON	Cartoon Network
35	TTC	The Travel Channel
36	A&E	Arts & Entertainment
37	CMTV	Country Music Television
38	EI	Entertainment Television
39	CNNfm	CNN Financial / International
40	MEU	Mind Extension University
41	DISC	The Discovery Channel
42	TLC	The Learning Channel
43	COURT	Court Television
50	WSBK	Superstation - Boston
51	WWOR	Superstation - New York
52	WPIX	Superstation - New York
53	TBS	Superstation - Atlanta
54	WGN	Superstation - Chicago
55	CBMT	Superstation - Montreal
56	WCCO	Superstation - Minneapolis
57	CBCTN	Superstation - Toronto
58	KTLA	Superstation - Los Angeles

1/1/97

* Optional Premium Programming. (Basic service required.)
FOR SERVICE / INFORMATION CALL

1-800-367-4918